



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2008-0603; FRL-9947-67-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Philadelphia County Reasonably Available Control Technology under the 1997 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve state implementation plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. These revisions pertain to a demonstration that Philadelphia County (Philadelphia) meets the requirements for reasonably available control technology (RACT) of the Clean Air Act (CAA) for nitrogen oxides (NO_x) and volatile organic compounds (VOC) as ozone precursors for the 1997 8-hour ozone national ambient air quality standards (NAAQS). In this rulemaking action, EPA is proposing to approve three separate SIP revisions addressing RACT under the 1997 8-hour ozone NAAQS for Philadelphia, including new or revised source-specific RACT determinations for fifteen major sources of NO_x and/or VOC and certifications that certain previous source-specific RACT determinations for major sources of NO_x and/or VOC continue to adequately represent RACT under the 1997 8-hour ozone NAAQS. EPA also proposes to convert the prior conditional approval of the Philadelphia RACT demonstration for the 1997 8-hour ozone NAAQS to full approval, as Pennsylvania has met the obligations associated with the conditional approval. EPA therefore proposes to find that Pennsylvania has met all applicable RACT requirements under the CAA for the 1997 8-hour ozone NAAQS for Philadelphia. This action is being taken under the CAA.

DATES: Written comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2008-0603 at <http://www.regulations.gov>, or via email to Fernandez.cristina@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Emlyn Vélez-Rosa, (215) 814-2038, or by e-mail at velez-rosa.emlyn@epa.gov.

SUPPLEMENTARY INFORMATION: On June 27, 2014, February 18, 2015, and April 26, 2016, the Pennsylvania Department of Environmental Protection (PADEP) submitted on behalf

of Philadelphia Air Management Services (AMS) three separate revisions to its SIP to satisfy the RACT requirements for the 1997 8-hour ozone NAAQS for Philadelphia. Altogether, the Philadelphia RACT SIP revisions are intended to fulfill the conditions in EPA's December 13, 2013 conditional approval. 78 FR 75902.

I. Background

A. General

Ground level ozone pollution (commonly referred to as smog) is formed when VOC react with NO_x in the presence of sunlight. In order to reduce ozone concentrations in the ambient air, the CAA requires all nonattainment areas to apply controls on VOC and NO_x emission sources to achieve emission reductions. Among effective control measures, RACT controls are a major group for reducing VOC and NO_x emissions from stationary sources.

Since the 1970's, EPA has consistently interpreted RACT to mean the lowest emission limit that a particular source is capable of meeting by the application of the control technology that is reasonably available considering technological and economic feasibility.¹ Section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must include reasonably available control measures (RACM) for attainment of the NAAQS, including emissions reductions from existing sources through adoption of RACT. Sections 182(b)(2) and (f)(1) of the CAA require states with moderate, or worse, ozone nonattainment areas to implement RACT controls on each category of stationary sources covered by a control technique guideline (CTG) document issued by EPA and

¹ See 44 FR 53782 (September 17, 1979); EPA's 1976 memorandum from Roger Strelow, Assistant Administrator for Air and Waste Management to Regional Administrators, "Guidance for Determining Acceptability of SIP Regulations in Non-attainment Areas" (December 9, 1976); and also, 72 FR 20586, 20610 (April 25, 2007).

on all major stationary sources of VOC and NO_x emissions located in the area.² Pursuant to section 184(b) of the CAA, the same requirements for sources of NO_x and VOC apply to any areas in an ozone transport region (OTR) established under section 184(a), therefore including marginal and moderate nonattainment areas as well attainment areas within an OTR. A single OTR has been established, comprised of 12 eastern states, or portions thereof, and the District of Columbia (hereafter, “the OTR”). The entire Commonwealth of Pennsylvania is part of the OTR.

On July 18, 1997 (62 FR 38856), EPA revised the NAAQS for ground-level ozone, setting at 0.08 parts per million (ppm) averaged over an 8-hour time frame. On April 15, 2004, EPA issued final designations for the 1997 8-hour ozone NAAQS, which included Philadelphia County as part of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE moderate ozone nonattainment area. 69 FR 23858, at 23931 (April 30, 2004). At the same time, EPA published the first phase of its final rule to implement the 1997 8-hour ozone NAAQS (Phase I Ozone Implementation Rule), in which EPA revoked the previous 1-hour ozone NAAQS for most areas of the country, effective on June 15, 2005, and established anti-backsliding principles to transition from implementing the revoked 1-hour ozone NAAQS to the more protective 1997 8-hour ozone NAAQS, as codified in 40 CFR 51.905.³ The nonattainment designation for Philadelphia under the 1997 8-hour ozone NAAQS, and its location in the OTR, triggered the Commonwealth’s obligation to submit a SIP revision addressing how it meets the CAA RACT requirements in Philadelphia under the standard.

² A major source in an ozone nonattainment area is defined as any stationary source that emits or has the potential to emit NO_x and VOC emissions above a certain applicability threshold that is based on the classification of the ozone nonattainment area. *See* “major stationary source” in 40 CFR 51.165.

³ “Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 1,” 69 FR 23951 (April 30, 2001).

On March 12, 2008 (73 FR 16436), EPA significantly strengthened the 8-hour ozone NAAQS by revising the primary 8-hour ozone standard to a level of 0.075 ppm. On March 6, 2015 (80 FR 12264), EPA published a final rule for the implementation of the 2008 8-hour ozone NAAQS, while at the same time revoking the 1997 8-hour ozone NAAQS, effective on April 6, 2015.⁴ Consistent with EPA's previous approach, the 2008 8-Hour Ozone Implementation Rule established anti-backsliding principles to transition from implementing the revoked 1997 8-hour ozone NAAQS to the 2008 8-hour ozone NAAQS, as codified in 40 CFR 51.1100. In this rule, EPA clarified that RACT under the 1997 8-hour ozone NAAQS, among other requirements, continues to apply to a nonattainment area, in accordance with its designation and classification for the 1997 8-hour ozone NAAQS at the time of the revocation of the standard. Therefore, 1997 8-hour ozone RACT continues to be an applicable requirement for Philadelphia.

The implementation of RACT controls under the 1997 8-hour ozone NAAQS is required in Philadelphia for each category of VOC sources covered by a CTG document issued by EPA (i.e., CTG RACT) and all other major stationary sources of NO_x and VOC (major source RACT or non-CTG RACT), as defined for a moderate nonattainment area. Philadelphia was also subject to the CAA RACT requirements under the 1-hour ozone NAAQS, as it was designated as part of the Philadelphia-Wilmington-Trenton, PA-NJ-DE-MD severe ozone nonattainment area under the 1-hour ozone NAAQS. *See* 56 FR 56694, 56822 (November 6, 1991). As a result, PADEP and AMS implemented numerous RACT controls in Philadelphia to meet the statutory RACT requirements under this previous standard.

B. EPA's Requirements under the 1997 8-Hour Ozone RACT

⁴ "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements" Final Rule, 80 FR 12264 (March 6, 2015).

On November 29, 2005, EPA published the second phase to its implementation rule to address nonattainment SIP requirements for the 1997 8-hour ozone NAAQS (the Phase 2 Ozone Implementation Rule).⁵ This rule addressed, among other things, control and planning obligations as they apply to nonattainment areas under the 1997 8-hour ozone NAAQS, including RACT and RACM. In this rule, EPA specifically required that states meet the RACT requirements under the 1997 8-hour ozone NAAQS, either through a certification that previously adopted RACT controls in their SIP revisions approved by EPA under the 1-hour ozone NAAQS continue to represent adequate RACT control levels for 1997 8-hour ozone NAAQS attainment purposes, or through the adoption of new or more stringent regulations that represent RACT control levels.⁶ A certification must be accompanied by appropriate supporting information such as consideration of information received during the public comment period and consideration of new data. Adoption of new RACT regulations should occur when states have new stationary sources not covered by existing RACT regulations, or when new data or technical information indicates that a previously adopted RACT measure does not represent a newly available RACT control level. EPA also requires states to submit a negative declaration if there are no CTG major sources of VOC and NO_x emissions within the nonattainment area in lieu of or in addition to a certification.

EPA particularly addressed controls for NO_x emissions from electric generating units (EGUs) in the Phase 2 Ozone Implementation Rule. EPA determined that the regional NO_x emissions reductions that result from either the NO_x SIP Call or the Clean Air Interstate Rule (CAIR) for

⁵ “Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2,” 70 FR 71612-71705 (November 29, 2005).

⁶ For more information, see the preamble of the final Phase 2 Ozone Implementation Rule for a discussion of EPA’s interpretation of the CAA RACT requirements for the 1997 8-hour ozone NAAQS, in 70 FR 71652-71659 (November 29, 2005).

addressing interstate transport of ozone pollution, would meet the NO_x RACT requirement for EGUs located in states included within the respective geographic regions. Thus, EPA concluded that the states did not need to perform a NO_x RACT analysis for sources subject to the state's emission cap-and-trade program where such program has been adopted by the state and approved by EPA as meeting the NO_x SIP Call requirements or, in states achieving the CAIR reductions solely from EGUs, the CAIR NO_x requirements.

In November 2008, several parties challenged the Phase 2 Ozone Implementation Rule, particularly, EPA's determination that compliance by EGUs with the requirements of the NO_x SIP and/or CAIR could also be construed as compliance with RACT under the 1997 8-hour ozone NAAQS. As a result of this litigation, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) decided that such presumptions and determinations by EPA in the Phase 2 Ozone Implementation Rule were inconsistent with the statutory requirements of section 172(c)(1) of the CAA. Because region-wide RACT-level emissions reductions do not meet the statutory requirement that the reductions be from sources in the nonattainment area, the D.C. Circuit found that EPA had not shown that compliance with NO_x SIP Call would result in at least RACT-level reductions in emissions from sources within each nonattainment area. *See NRDC v. EPA*, 571 F.3d 1245 (DC Cir. 2009).⁷

C. EPA's Conditional Approval for Philadelphia's 1997 8-Hour Ozone RACT

⁷ The D.C. Circuit addressed whether reductions from the NO_x SIP call could address NO_x RACT. The issue as to whether CAIR satisfies NO_x RACT for EGUs was not addressed by the D.C. Circuit because the D.C. Circuit had already remanded CAIR to EPA for further analysis at that time. *See North Carolina v. EPA*, 531 F.3d 896; modified by 550 F.3d 1176 (D.C. Cir. 2008). In subsequent litigation, the rule that EPA promulgated to replace CAIR (i.e., the Cross State Air Pollution Rule or CSAPR) was initially vacated by the D.C. Circuit but upheld by the U.S. Supreme Court. *EPA v. EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014). EPA began implementing CSAPR in January 2015. *See* 79 FR 71663 (December 3, 2014) (interim final rulemaking issued after D.C. Circuit lifted stay on CSAPR). Thus, EPA decided it would be appropriate to reconsider its prior determination that CAIR could satisfy NO_x RACT in light of the earlier decision in *NRDC v. EPA*. *See* 79 FR 32892 (June 9, 2014) (proposing removal of prior determination that CAIR could be NO_x RACT).

Demonstration

On September 29, 2006, PADEP submitted, on behalf of AMS, a SIP revision purporting to address the RACT requirements for Philadelphia under the 1997 8-hour ozone NAAQS. The 2006 SIP revision consisted of a RACT demonstration for Philadelphia, including (1) a certification that previously adopted RACT regulations that were approved by EPA in Pennsylvania's SIP for Philadelphia under the 1-hour ozone NAAQS continue to represent RACT for the 1997 8-hour ozone NAAQS implementation purposes; (2) the adoption of federally enforceable permits that represent CTG RACT control for four major VOC sources; and (3) a negative declaration that certain VOC source categories that would be covered by CTG documents do not exist in Philadelphia.

EPA identified two deficiencies in the 2006 SIP revision which precluded EPA's approval. First, the 2006 SIP revision included as RACT certain provisions that relied on the NO_x SIP Call, which in light of the 2009 D.C. Circuit decision in *NRDC v. EPA* regarding the inappropriateness of the NO_x SIP Call as RACT, precluded EPA from approving the 2006 SIP revision.

Specifically, the 2006 SIP submittal certified as RACT the following PADEP regulations: 25 Pa Code sections 145.1-145.100 ("NO_x Budget Trading Program"), 25 Pa Code sections 145.111-145.113 ("Emissions of NO_x from Stationary Internal Combustion Engines"), and 25 Pa Code sections 145.141-144 ("Emissions of NO_x from Cement Manufacturing"). Second, EPA also determined that the Philadelphia 2006 SIP revision did not sufficiently address the source-specific RACT requirements for 46 major sources of NO_x and/or VOC that were previously approved under the 1-hour ozone NAAQS, per the SIP approved regulation in 25 Pa Code sections 129.91-92, which AMS certified as RACT under the 1997 8-hour ozone NAAQS.

On June 22, 2010, PADEP submitted another RACT SIP revision addressing certain CTG RACT requirements that superseded portions of the RACT demonstration in the 2006 SIP revision. The 2010 SIP revision consisted of two new CTG regulations, Air Management Regulation (AMR) V section XV (“Control of Volatile Organic Compounds (VOC) from Marine Vessel Coating Operations”) and AMR V section XVI (“Synthetic Organic Manufacturing Industry (SOCMI) Air Oxidation, Distillation, and Reactor Processes”), and related amendments to AMR V Section I (“Definitions”), as adopted by AMS on April 26, 2010, effective upon adoption. The 2010 SIP revision also included a negative declaration demonstrating that there are no sources in Philadelphia for the CTG source category of natural gas and gasoline processing plants. The CTG regulations adopted in 2010 superseded source-specific RACT determinations provided in the 2006 SIP revision, because the new provisions are as, if not more, stringent than those RACT requirements previously submitted in 2006.⁸ Additionally, the 2010 SIP revision clarified that in the 2006 SIP submission, AMS had erroneously defined two sources in Philadelphia under the CTG category for natural gas and gasoline processing plants, and for which AMS submitted source-specific RACT determinations in the 2006 SIP revision. For these reasons, EPA determined that the provisions in the 2006 and 2010 SIP revisions were related in addressing Philadelphia’s 1997 8-hour ozone NAAQS RACT obligation and were not separable for approval purposes as each SIP submittal contained provisions addressing RACT obligations.

Pursuant to section 110(k)(4) of the CAA, on April 26, 2013, PADEP submitted, on behalf of AMS, a letter in which AMS committed to submit SIP revisions addressing the source-specific

⁸ AMR V section XV and AMR V section XVI address EPA’s RACT requirements as specified in the following CTGs: (1) “Control Techniques Guidelines for Shipbuilding and Ship Repair Operations (Surface Coating)” (61 FR 44050, August 27, 1996), (2) “Control of Volatile Organic Compound Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry” (EPA-450/3-84-015, December 1984), and (3) “Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry” (EPA-450/4-91-031, August 1993).

RACT requirements for major sources of NO_x and/or VOC in Philadelphia under the 1997 8-hour ozone NAAQS, including EGUs that were presumed to rely on the NO_x SIP Call provisions to meet RACT. In the April 26, 2013 letter, AMS identified five sources that since the approval of the 1-hour ozone source-specific RACT determinations have adopted or will adopt additional controls that it believed represent RACT under the 1997 8-hour ozone NAAQS, and for which it would submit new source-specific RACT determinations: (1) Philadelphia Energy Solutions Refining and Marketing, LLC (formerly Sunoco Inc. (R&M)- Philadelphia), (2) Kraft Nabisco (formerly Nabisco Biscuit Co, and presently Mondelez), (3) Temple University- Health Sciences Campus, (4) GATX Terminals Corporation (presently, Kinder Morgan Liquids terminals, LLC), and (5) Honeywell International- Frankford Plant (formerly Sunoco Chemicals – Frankford Plant). Additionally, AMS indicated it would submit source-specific RACT determinations for five EGU sources in Philadelphia that relied on emissions reductions under the NO_x SIP Call as RACT including: (1) Exelon Generating Company – Delaware Station, (2) Exelon Generating Company– Richmond Station, (3) Exelon Generating Company– Schuylkill Station, (4) Veolia Energy – Edison Station (formerly TRIGEN- Edison Station), and (5) Veolia Energy– Schuylkill Station (formerly TRIGEN- Schuylkill Station). AMS needed to submit source-specific RACT determinations or alternative certifications to address RACT for any major NO_x sources, such as EGUs, for which AMS relied in prior SIP submissions on the NO_x SIP Call to address RACT for the 1997 8-hour ozone NAAQS, because EPA cannot approve as RACT provisions relying on the NO_x SIP Call. *See NRDC v. EPA*, 571 F.3d 1245.

On June 19, 2013 (78 FR 36716), EPA proposed conditional approval of the Philadelphia 1997 8-hour ozone RACT demonstration included in both the 2006 and 2010 RACT SIP revisions, based upon AMS's commitment to submit additional SIP revisions to correct the deficiencies

previously identified by EPA.⁹ In the June 19, 2013 proposed conditional approval, EPA proposed that in order to correct the deficiencies in the Philadelphia 1997 8-hour ozone RACT demonstration, AMS needed to provide a source-specific RACT analysis for each major NOx/VOC source subject to 25 Pa Code 129.91-92 for which current controls do not currently and adequately represent RACT for the 1997 8-hour ozone NAAQS, including each of the 10 major NOx and/or VOC sources identified by AMS in the April 26, 2013 letter, or alternatively provide a certification that source-specific RACT controls for all other major sources of NOx and VOC in Philadelphia previously approved by EPA in Pennsylvania's SIP for the 1-hour ozone NAAQS continue to adequately represent RACT for the 1997 8-hour ozone NAAQS.

On December 13, 2013 (78 FR 75902), EPA finalized its conditional approval of the Philadelphia 1997 8-hour ozone RACT demonstration, as provided in the 2006 and 2010 SIP revisions, with the condition that Pennsylvania, on behalf of AMS, submits additional SIP revisions addressing source-specific RACT to address the deficiencies in the previously submitted 1997 8-hour ozone RACT demonstration. As stated in the December 13, 2013 final action, once EPA determines that AMS has satisfied this condition, EPA shall remove the conditional nature of such approval and the Philadelphia 1997 8-hour ozone RACT demonstration will receive at that time full approval status. For a detailed discussion of EPA's conditional approval of Philadelphia's 1997 8-hour ozone RACT demonstration and the identified deficiencies of the 2006 SIP revision, see 78 FR 75902 (December 13, 2013) (final action) and 78 FR 36716 (June 19, 2013) (proposed action).

II. Summary of SIP Revisions

⁹ In this action, EPA also withdrew its previous proposed rule published on August 26, 2008 (73 FR 50270), proposing to fully approve the 2006 SIP revision addressing 1997 8-hour ozone RACT for Philadelphia.

To satisfy the requirements from EPA’s December 13, 2013 conditional approval, PADEP has submitted to EPA, on behalf of AMS, subsequent SIP revisions addressing the source-specific RACT requirements for major sources in Philadelphia subject to 25 Pa Code 129.91-92. On June 27, 2014, February 18, 2015, and April 26, 2016, PADEP submitted to EPA, on behalf of AMS, three separate SIP revisions pertaining to the Philadelphia 1997 8-hour ozone RACT demonstration (hereafter collectively referred to as “the Philadelphia RACT SIP revisions”). AMS provided documentation in the Philadelphia RACT SIP revisions to support that RACT has been met for all major sources of NO_x and/or VOC in Philadelphia, including source-specific RACT determinations for affected emission units at each major source subject to 25 Pa Code 129.91-92.¹⁰ Specifically, AMS evaluated a total of 25 major NO_x and/or VOC sources in Philadelphia for RACT.

On April 26, 2016, PADEP also submitted a letter, on behalf of AMS, withdrawing from the 2006 SIP revision the certification of the Pennsylvania rules related to the NO_x SIP Call as 1997 8-hour ozone RACT, specifically 25 Pa Code sections 145.1-145.100, 25 Pa Code sections 145.111-145.113, and 25 Pa Code sections 145.141-144. In the letter, PADEP reaffirms that AMS is no longer relying on the SIP approved provisions related to the NO_x SIP Call as 1997 8-hour ozone RACT for any sources in Philadelphia. On May 4, 2016, EPA submitted a letter accepting PADEP’s request for withdrawal of these provisions from the 2006 SIP revision, and acknowledging that this portion of the submittal is no longer pending before EPA for a final action.

The June 27, 2014 SIP revision consists of a source-specific RACT determination for certain

¹⁰ The applicable “major source” thresholds for 1997 8-hour ozone RACT purposes are 50 tons per year (TPY) of VOC and 100 TPY of NO_x or greater of potential emissions for each respective pollutant, in light of the moderate ozone classification of Philadelphia for the 1997 8-hour ozone NAAQS, as well as its location in the OTR.

emissions units (6 process heaters) at Philadelphia Energy Solutions Refining and Marketing, LLC (PES). The February 19, 2015 SIP revision addresses RACT requirements for the 25 major sources of NO_x and/or VOC in Philadelphia, including the remaining emissions units at PES that were not addressed in the June 27, 2014 SIP revision. The April 26, 2016 SIP revision amends the RACT determinations for 15 sources that were previously addressed in the February 19, 2015 SIP revision.

In the Philadelphia RACT SIP revisions, AMS includes a RACT evaluation for each major source of NO_x and/or VOC in Philadelphia. AMS identifies applicable RACT requirements for the existing emissions units at each major source located in Philadelphia, including CTG RACT, presumptive RACT requirements, and source-specific RACT requirements.¹¹ AMS identified 16 major sources of NO_x and/or VOC in Philadelphia subject to Pennsylvania’s source-specific RACT requirements, as summarized in Table 1, including 14 major sources subject to previous source-specific RACT determinations and 2 major sources newly subject to source-specific RACT.

Table 1. Major NO_x and/or VOC Sources in Philadelphia Subject to Source-Specific RACT under the 1997 8-Hour Ozone NAAQS

Major Source	Plant ID Number	1-Hr Ozone RACT Source?	Major Source Pollutant	New or Revised Source-Specific Determination? (“Yes” or “No”)	New or Revised RACT Permit (Effective Date)
Exelon Generating Company- Delaware Station	04901	x	NO _x	No	-

¹¹ The CTG RACT requirements are those specified in regulations in the Pennsylvania SIP and are consistent with EPA’s CTGs for the affected source categories. Presumptive RACT requirements are those specified in 25 Pa Code section 129.93, which are alternative compliance option for sources subject to source-specific RACT.

Major Source	Plant ID Number	1-Hr Ozone RACT Source?	Major Source Pollutant	New or Revised Source-Specific Determination? (“Yes” or “No”)	New or Revised RACT Permit (Effective Date)
Exelon Generating Company- Richmond Station	04903	x	NOx	Yes	PA-51-4903 (02/09/16)
Exelon Generating Company- Schuylkill Station	04904	x	NOx	No	-
Honeywell- Frankford Plant [formerly, Sunoco Chemical- Frankford Plant]	01551	x	NOx and VOC	Yes	PA-51-1151 (02/09/16)
Kinder Morgan Liquids Terminals, LLC [formerly, GATX Terminals Corp.]	05003	x	VOC	Yes	PA-51-5003 (02/09/16)
Naval Surface Warfare Center, Carderock Division (NSWCCD)	09724	x	NOx	Yes	PA-51-9724 (02/09/16)
Newman & Company, Inc.	03489	x	NOx	No	-
PaperWorks Industries, Inc. [formerly, Jefferson Smurfit, Corp./ Container Corp. of America]	01566	x	NOx	Yes	PA-51-1566 (01/09/15)
Philadelphia Energy Solutions- Refining and Marketing, LLC [formerly, Sunoco Inc. (R&M)- Philadelphia]	01501 / 01517	x	NOx and VOC	Yes	PA-51-01501 and PA-51-01517 (02/09/16)
Philadelphia Gas Works- Richmond Plant	04922	x	NOx	Yes	PA-51-4922 (01/09/15)
Philadelphia Prison System	09519		NOx	Yes	PA-51-9519 (02/09/16)
Plain Products Terminals, LLC [formerly, Maritank Philadelphia, Inc. and Exxon Company, USA]	05013	x	VOC	Yes	PA-51-05013 (02/09/16)
Temple- Health Sciences Campus	08906	x	NOx	Yes	PA-51-8906 (01/09/15)
Temple- Main Campus	08905		NOx	Yes	PA-51-8905 (01/09/15)

Major Source	Plant ID Number	1-Hr Ozone RACT Source?	Major Source Pollutant	New or Revised Source-Specific Determination? (“Yes” or “No”)	New or Revised RACT Permit (Effective Date)
Veolia Energy- Edison Station [formerly TRIGEN- Edison Station]	04902	x	NOx	Yes	PA-51-4902 (01/09/15)
Veolia Energy- Schuylkill Station [TRIGEN- Schuylkill Station] / Grays Ferry Cogeneration Partnership / Veolia Energy Efficiency, LLC ^a	04942 / 04944 / 10459	x	NOx	Yes	PA-51-4942 (02/09/16) / PA-51-4944 (01/09/15) / PA-51-10459 (01/09/15)

^a Grays Ferry Cogeneration Plant, Veolia Schuylkill, and Veolia Energy Efficiency have been aggregated as a single major source after the 1-hour RACT determination. AMS submitted RACT documentation for each facility separately, although considering RACT applicability as a single major source of NOx.

The source-specific RACT determinations submitted by AMS consist of an evaluation of all reasonably available controls at this time for each affected emissions unit, resulting in an AMS determination of what specific control requirements, if any, satisfy RACT for that particular unit. The adoption of new or additional controls or the revisions to existing controls as RACT were specified as requirements in new or revised federally enforceable permits (hereafter RACT permits) issued by AMS for the source. The new or revised RACT permits have been submitted as part of the Philadelphia RACT SIP revisions for EPA’s approval in the Pennsylvania SIP under 40 CFR 52.2020(d)(1). For sources subject to previous RACT determinations specified in RACT permits under 40 CFR 52.2020(d)(1) for which AMS is revising or adopting additional source-specific controls, the revised RACT permits, once approved by EPA, will supersede those permits currently in the SIP. All new or revised RACT permits submitted by AMS are listed in the last column of Table 1.

As part of the source-specific RACT determinations, AMS is also certifying for certain emissions units at major sources subject to source-specific RACT determinations under the 1-hour ozone NAAQS, which are part of the Pennsylvania SIP at 40 CFR 52.2020(d)(1), that the

existing RACT controls continue to represent RACT for the 1997 8-hour ozone NAAQS. For these units, AMS did not propose additional revisions.

AMS submitted source-specific RACT determinations for nine of the ten major sources identified in EPA's conditional approval. AMS did not submit the required source-specific RACT determination for Kraft Nabisco (formerly Nabisco Biscuit Co, and presently Mondelez), because it concluded that this source is no longer considered a major source of NO_x and VOC for 1997 8-hour ozone RACT. As clarified in the Philadelphia RACT SIP revisions, in 2012, Mondelez took federally enforceable facility-wide limits of 25 tons per year for both NO_x and VOC emissions, restricting the facility's potential emissions under the applicable thresholds for 1997 8-hour ozone RACT. EPA concurs with AMS's conclusion regarding the operational status of Mondelez and thus determines that the condition in the December 13, 2013 conditional approval to submit a source-specific RACT determination under the 1997 8-hour ozone NAAQS for this source is no longer applicable.

AMS is further certifying that there are 27 additional NO_x and/or VOC sources in Philadelphia subject to source-specific RACT determinations for the 1-hour ozone NAAQS in the Pennsylvania SIP at 40 CFR 52.2020(d)(1) that are no longer subject to RACT for purposes of the 1997 8-hour ozone NAAQS. AMS clarifies that 18 of these sources have permanently shut down, while the remaining nine are no longer considered major sources of NO_x/VOC emissions for RACT under the 1997 8-hour ozone NAAQS (less than 100 or 50 TPY, respectively).

Sources that remain in operation must still comply with the SIP approved 1-hour ozone RACT determinations, although not subject to 1997 8-hour ozone RACT. AMS is formally requesting EPA to remove from the SIP the 18 source-specific RACT determinations approved under the 1-

hour ozone NAAQS, as codified in 40 CFR 52.2020(d)(1). The shutdown sources and their respective SIP approved RACT Permits are listed in Table 2. AMS certifies that none of these shutdown facilities have active operating permits or air pollution licenses for any equipment, and that under Pennsylvania and Philadelphia regulations, they cannot operate until further notification and issuance of applicable permits.

Table 2. Shutdown Major Sources of NO_x and/or VOC in Philadelphia Subject to Previous Source-Specific RACT Determinations

Source	SIP Approved RACT Permit (Effective Date)	EPA's SIP Approval Date
Aldan Rubber Company	PA-51-1561 (07/21/00)	10/30/01, 66 FR 54691
Amoco Oil Company	PA-51-5011 (05/29/15)	10/31/01, 66 FR 54936
Arbill Industries, Inc	PA-51-3811 (07/27/99)	10/30/01, 66 FR 54691
Braceland Brothers, Inc	PA-51-3679 (07/14/00)	10/30/01, 66 FR 54691
Budd Company	PA-51-1564 (12/28/95)	12/15/00, 65 FR 78418
Eastman Chemical [formerly, McWhorter Technologies, Inc.]	PA-51-3542 (07/27/99)	10/30/01, 66 FR 54691
Graphic Arts, Incorporated	PA-51-2260 (07/14/00)	10/30/01, 66 FR 54691
Interstate Brands Corporation	PA-51-5811 (04/10/95)	12/15/00, 65 FR 78418
Kurz Hastings, Inc.	PA-51-1585 (05/29/95)	10/31/01, 66 FR 54936
Lawrence McFadden, Inc.	PA-51- 2074 (06/11/97)	10/31/01, 66 FR 54936
O'Brien (Philadelphia) Cogeneration, Inc.—Northeast Water Pollution Control Plant	PA-51-1533 (07/21/00)	10/30/01, 66 FR 54691
O'Brien (Philadelphia) Cogeneration, Inc.—Southwest Water Pollution Control Plant	PA-51-1534 (07/21/00)	10/30/01, 66 FR 54691
Pearl Pressman Liberty	PA-51-7721 (07/24/00)	10/30/01, 66 FR 54691
Philadelphia Baking Company	PA-51- 3048 (04/10/95)	10/31/01, 66 FR 54936
Rohm and Haas Company- Philadelphia	PA-51-1531 (07/27/99)	10/31/01, 66 FR 54942

Source	SIP Approved RACT Permit (Effective Date)	EPA's SIP Approval Date
Tasty Baking Co.	PA-51-2054 (04/04/95)	10/31/01, 66 FR 54942
Transit America, Inc.	PA-51- 1563 (06/11/97)	11/5/01, 66 FR 55880
SBF Communications	PA-51-2197 (07/21/00)	10/31/01, 66 FR 54942

III. EPA's Evaluation of SIP Revisions

After thorough review and evaluation of the information provided by AMS in the Philadelphia RACT SIP revisions for major sources of NO_x and/or VOC in Philadelphia, EPA finds that the AMS source-specific RACT determinations and conclusions provided are reasonable and address RACT requirements for Philadelphia for the 1997 8-hour ozone NAAQS in accordance with the Phase 2 Ozone Implementation Rule and latest available information. EPA finds that the proposed source-specific RACT controls and emissions limits in the Philadelphia RACT SIP revisions adequately meet the CAA RACT requirements for the 1997 8-hour ozone NAAQS for each major source of NO_x and VOC in Philadelphia not covered by Pennsylvania RACT regulations.

EPA also finds that the all proposed revisions to previously SIP approved RACT requirements, as discussed in the Philadelphia RACT SIP revisions will result in equivalent or additional reductions of NO_x and/or VOC emissions and should not interfere with any applicable requirement concerning attainment or reasonable further progress with the NAAQS or interfere with other applicable CAA requirement in section 110(l) of the CAA. In the case of AMS removal of RACT requirements from the SIP that are no longer applicable, as the sources have been permanently removed, EPA finds these SIP revisions to be adequate and will not have any adverse impact to air quality. EPA's complete analysis of the Philadelphia RACT SIP revisions

is included in the technical support document (TSD) available in the docket for this rulemaking action and available on line at <http://www.regulations.gov>.

As discussed earlier, EPA determined in the December 15, 2013 conditional approval that the Philadelphia 1997 8-hour ozone RACT demonstration as provided in the 2006 and 2010 SIP revisions adequately met RACT under the CAA, with exception of the source-specific RACT requirements in 25 PA Code sections 129.91-92 and the NO_x SIP Call related provisions in the Pennsylvania SIP in 25 Pa Code sections 145.1-145.100, 25 Pa Code sections 145.111-145.113, and 25 Pa Code sections 145.141-144. In this proposed rulemaking action, EPA finds that the subsequent Philadelphia RACT SIP revisions adequately correct the two deficiencies identified by EPA on the Philadelphia RACT demonstration, as provided in the 2006 and 2010 SIP revisions, and thus satisfy the December 15, 2013 conditional approval. Based on PADEP's withdrawal of the certified provisions relying on NO_x SIP Call as RACT from the 2006 SIP revision, EPA finds that the remaining certified NO_x and/or VOC regulations, the CTG negative declarations, and the recently adopted regulatory provisions in AMR V sections XV and XVI, submitted as part of the 2006 and 2010 SIP revisions, are consistent with the latest available information and EPA's guidance and therefore adequately meet RACT for the 1997 8-hour ozone NAAQS.¹²

Consequently, EPA finds that the Philadelphia 1997 8-hour ozone RACT demonstration, as provided within the SIP revisions submitted to EPA from 2006 to 2016, address RACT under the 1997 8-hour ozone NAAQS for all NO_x and/or VOC major sources in Philadelphia through:

(1) compliance with previously approved RACT regulations in the Pennsylvania SIP, including

¹² EPA's evaluation of the 2006 and 2010 SIP revisions is provided in the June 19, 2013 proposed conditional approval and related technical support document dated May 22, 2013, and will not be restated here. *See* 78 FR 36716.

but not limited to CTG regulations (in the 2006 and 2010 SIP revisions); (2) submission of negative declarations (in the 2006 and 2010 SIP revisions) for CTG source categories; (3) the adoption of additional source-specific controls and/or limits in major sources, included in federally enforceable permits and submitted as part of the SIP revisions; and/or (4) certifications for major sources subject to source-specific RACT controls previously approved into the SIP, which controls continue to represent RACT under the 1997 8-hour ozone NAAQS. Additional details regarding Philadelphia's source-specific RACT determinations, full background on the Philadelphia RACT SIP revisions, and EPA's detailed evaluation of the Philadelphia RACT SIP revisions can be found in the TSD prepared for this rulemaking action and available in the docket for this rulemaking at <http://www.regulations.gov>.

IV. Proposed Action

EPA proposes to approve the Philadelphia RACT SIP revisions submitted on June 27, 2014, February 18, 2015, and April 26, 2016 for all major sources of NO_x and/or VOC in Philadelphia subject to 25 Pa Code 129.91-92, as adequately meeting the CAA RACT requirements for the 1997 8-hour ozone NAAQS. EPA is proposing to incorporate by reference in the Pennsylvania SIP, via RACT permits, source-specific RACT determinations under the 1997 8-hour ozone NAAQS for certain major sources of NO_x and VOC emissions.

EPA also proposes to find that the Philadelphia RACT SIP revisions satisfy the conditions established by EPA in its December 13, 2013 conditional approval to correct the deficiencies of the previously submitted Philadelphia 1997 8-hour ozone NAAQS RACT demonstration. For this reason, EPA also proposes to remove the conditional nature of the December 13, 2013 conditional approval and grant full approval to the Philadelphia 1997 8-hour ozone NAAQS

RACT demonstration, as submitted on September 29, 2006 and June 22, 2010 as SIP revisions.

EPA also proposes in this rulemaking action that the certified and recently adopted NO_x and VOC regulations and the negative declarations, included in the September 29, 2006 and June 22, 2010 SIP revisions, meet RACT under the 1997 8-hour ozone NAAQS. Therefore, EPA also proposes to incorporate by reference into the Pennsylvania SIP the regulatory provisions in AMR V sections I, XV, and XVI, as amended or adopted in April 26, 2010 and effective upon adoption. Finally, EPA proposes that the Philadelphia 1997 8-hour ozone NAAQS RACT demonstration, included within the September 29, 2006, June 22, 2010, June 27, 2014, February 18, 2015, and April 26, 2016 SIP revisions, satisfies the RACT requirements under the CAA for the 1997 8-hour ozone NAAQS, in accordance with the Phase 2 Ozone Implementation Rule. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

V. Incorporation by Reference

In this proposed rulemaking action, EPA is proposing to include in a final EPA rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference source-specific RACT determinations under the 1997 8-hour ozone NAAQS for certain major sources of NO_x and VOC emissions, and Philadelphia CTG RACT regulations of AMR V sections I, XV, and XVI, as amended or adopted in April 26, 2010 and effective upon adoption. EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or may be viewed at the appropriate EPA office (see the ADDRESSES section of this preamble for more information). In accordance with requirements of 1 CFR 51.5, EPA is proposing to

incorporate by reference the regulatory provisions under 40 CFR 52.2020(c) and the source-specific RACT requirements under 40 CFR 52.2020(d)(1).

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, regarding the Philadelphia RACT requirements under the 1997 8-hour ozone NAAQS, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 et seq.

Dated: June 3, 2016.

Shawn M. Garvin,
Regional Administrator,
Region III.

[FR Doc. 2016-14102 Filed: 6/14/2016 8:45 am; Publication Date: 6/15/2016]